

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

Enoch Forte, :
Plaintiff, : Civil Action No.: _____
v. :
Tate & Kirlin Associates, Inc.; and DOES 1- :
10, inclusive, : **COMPLAINT**
Defendants. :
:

For this Complaint, the Plaintiff, Enoch Forte, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA") and the Telephone Consumer Protection Act 47 U.S.C. § 227, *et seq.* (the "TCPA") in their illegal efforts to collect a consumer debt.

2. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, Enoch Forte ("Plaintiff"), is an adult individual residing in Abbeville, South Carolina, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3), and is a "person" as defined by 47 U.S.C. § 153(39).

4. The Defendant, Tate & Kirlin Associates, Inc. (“Tate & Kirlin”), is a Pennsylvania business entity with an address of 2810 Southampton Road, Philadelphia, Pennsylvania 19154-1207, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6), and is a “person” as defined by 47 U.S.C. § 153(39).

5. Does 1-10 (the “Collectors”) are individual collectors employed by Tate & Kirlin and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

6. Tate & Kirlin at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

7. The Plaintiff allegedly incurred a financial obligation in (the “Debt”) to an original creditor (the “Creditor”).

8. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

9. The Debt was purchased, assigned or transferred to Tate & Kirlin for collection, or Tate & Kirlin was employed by the Creditor to collect the Debt.

10. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. Tate & Kirlin Engages in Harassment and Abusive Tactics

11. In early July 2020, Tate & Kirlin began calling Plaintiff in an attempt to collect the Debt.

12. Tate & Kirlin placed calls to Plaintiff using an automatic telephone dialing system (“ATDS”).

13. When Plaintiff answered calls from Tate & Kirlin, he heard silence and had to wait on the line before he was connected to the next available representative.

14. Since July 2020, Plaintiff has answered multiple calls from Tate & Kirlin.

15. During its initial conversation with Plaintiff, Tate & Kirlin spoke with Plaintiff in an aggressive and abusive manner, using profanity.

16. Plaintiff requested that Tate & Kirlin cease placing calls to him.

17. Nevertheless, Tate and Kirlin continued to place calls to Plaintiff during which Tate and Kirlin would disconnect the call after Plaintiff answered.

18. Plaintiff would call back Tate & Kirlin, but each time, Plaintiff was sent straight to voicemail and could not reach a person with whom he could speak.

19. This cycle occurred multiple times, causing significant inconvenience and frustration to Plaintiff.

C. Plaintiff Suffered Actual Damages

20. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

21. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I

VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, ET SEO.

22. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

23. The Defendants' conduct violated 15 U.S.C. § 1692d in that Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.

24. The Defendants' conduct violated 15 U.S.C. § 1692d(2) in that Defendants used profane and abusive language when speaking with the consumer.

25. The Defendants' conduct violated 15 U.S.C. § 1692d(5) in that Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass.

26. The Defendants' conduct violated 15 U.S.C. § 1692f in that Defendants used unfair and unconscionable means to collect a debt.

27. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

28. The Plaintiff is entitled to damages as a result of Defendants' violations.

COUNT II

VIOLATIONS OF THE TCPA 47 U.S.C. § 227, ET SEO.

29. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

30. At all times mentioned herein, Defendants called Plaintiff's cellular telephone number using an ATDS or predictive dialer.

31. Defendant's telephone system(s) have some earmarks of a predictive dialer.

32. When Plaintiff answered calls from Defendant, he heard silence before Defendant's telephone system would connect him to the next available representative.

33. Defendant's predictive dialers have the capacity to store or produce telephone numbers to be called, using a random or sequential number generator.

34. Defendant placed automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

35. The telephone number called by Defendant was and is assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

36. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

37. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

38. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

39. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;
2. Statutory damages pursuant to 15 U.S.C. § 1692k(a)(2)(A) and 47 U.S.C. § 227(b)(3)(B) against the Defendants;

3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendants;
4. Actual damages from the Defendants for all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations in an amount to be determined at trial for the Plaintiff;
5. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
6. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 22, 2021

Respectfully submitted,

By /s/ Sergei Lemberg

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